

REMARKS/ARGUMENTS

Claims 7, 8, 11, 18 and 21 are pending in the application.

Claims 7, 8, 11 and 18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,383,708 to Nagasaka et al. Applicant respectfully traverses the rejection. In order to anticipate a claim, the prior art reference must teach each and every limitation found in the claim. Claims 7 and 8 as amended claim connectors not suggested or taught in Nagasaka. Similarly, claim 11 as amended, claims an apparatus conforming to government standards not taught by, or inherent in Nagasaka. Claim 18 as amended claims an "upper tether redirection system" not taught or suggested in Nagasaka.

Claim 7 recites a coupling apparatus comprising a coupling member, which in turn comprises "an articulating connector." The Office action states that Nagasaka has a coupling member (26), which "is an articulating connector as the connector pivots/articulates about the loop of the extension [member (24)]" (Office action at 2.) This interpretation impermissibly expands the meaning of the claim term. When interpreting a claim term, reference to the specification for the meaning ascribed to that term by the inventor is required. *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed.Cir. 1989) ("When the applicant states the meaning that the claim terms are intended to have, the claims are examined with that meaning, in order to achieve a complete exploration of the applicant's invention and its relation to the prior art."); *ZMI Corp. v. Cardiac Resuscitator Corp.*, 844 F.2d 1576, 1580, 6 USPQ2d 1557, 1560 (Fed. Cir. 1988) (an inventor may be his own lexicographer). Thus, the specification, as well as the knowledge of those skilled in the art, give meaning to the existing limitations. *In re Weiss*, 989 F.2d 1202 (Fed. Cir. 1993) "In construing the meaning of a claim limitation, therefore, it is entirely proper to look to the specification in order to interpret what the inventor intended by the claim term." *Id.* "To do otherwise would be to improperly expand the meaning of a claim term beyond that intended by the inventor as described in the disclosure." *Id.*; *In re Sneed*, 710 F.2d 1544, 1548 (Fed. Cir. 1983). Indeed, it is axiomatic that the Patent Office's interpretation must be "reasonable" and "consistent with the specification," which the current interpretation is neither. *See In re Sneed*, 710 F.2d 1544, 1548 (Fed. Cir. 1983).

Here, not only do **those skilled in the art** understand what is meant by an "articulating connector," but so, too, the specification makes it clear that "articulating" as claimed refers to the portion of the coupling member that engages the anchor member, rather than the unreasonable interpretation that "articulating" refers to the portion of the coupling

member that attaches to the flexible member. The specification states: "Connector 74 further defines an *articulating finger or jaw 80* disposed within the mouth 75, and an actuator 78 adjacent to the slot 70 for *articulating the jaw 80* between open and normally closed positions. The mouth 75 is sized to receive therein the anchorage(s) 34 and/or upper tether anchorage (not shown) when the articulating jaw 80 is opened by depressing actuator 78. Illustratively, when the articulating jaw 80 is closed by releasing actuator 78 the anchorage 34 is trapped within the mouth 75 and inhibited by the closed jaw 80 from escaping mouth 75." (See App. p. 8, ll. 33-9.) Despite the fact that the specification explains, and those skilled in the art would know, that the "articulating connector" of claim 7 would refer to the portion of the coupling member that engages the anchorage, claim 7 has been amended for the sake of clarity. Accordingly, claim 7, and all claims depending therefrom, are thought to be in condition for allowance and such action is respectfully requested.

With respect to claim 11, the Office Action baldly states that the coupling apparatus of Nagasaka et al. "would inherently conform to the FMVSS 213 standard of October 2003. Applicant respectfully disagrees. The Office Action utterly fails to indicate how the Nagasaka device inherently meets the myriad and detailed requirements of FMVSS 213. It is established that "the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Examiner can neither rely on mere probabilities or possibilities and may not make unsupported assertions of inherency. See *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999); *In re Rijckaert*, 9 F.3d 1531, 1534 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82 (CCPA 1981); MPEP 2112. Here, the Office Action has utterly failed to meet the requisite burden of proof for inherency.

Turning to claim 18, the Office Action states that the Nagasaka device "is configured to be threaded through a vehicle "tether (18) redirection system." However, the so-called "tether (18) redirection system" of Nagasaka is not a redirection system. Rather it is itself an anchorage. Moreover, even assuming *arguendo* that "supporting belts 18" were redirection systems, the rejection ignores numerous limitations of the claim that require that the redirection system be an "*upper tether* redirection system" in contrast to the *lower anchorage* of Nagasaka, and that require the coupling apparatus to thread "*upwardly*" through and then "*downwardly*" away from the redirection system "to mate with the anchorage." In contrast, Nagasaka teaches extension straight from the child seat to the

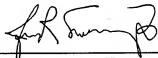
anchorage (18), without any upward threading or downward redirection. Equally fatal to the rejection is the fact that the rejection necessarily defines Nagasaka's supporting belt 18 as **both** the claimed "redirection system" **and** the "anchorage." This conflation of limitations is an impermissible merging of several limitations. *Texas Instruments, Inc. v. United States Int'l Trade Comm'n*, 988 F.2d 1165, 1171, 26 U.S.P.Q.2d 1018 (Fed. Cir. 1993) (all limitations of a claim must be considered meaningful and no claim language may be interpreted as mere surplusage). Further evidence that the Office Action misapprehends the existence of two separate limitations is found in the statement that "the coupling is capable of being redirected to an upper tether redirection if desired by the user." The claim requires the coupling to be threaded upwardly through a redirection system **and** downwardly to engage an anchorage. The redirection system cannot be **both** the redirection system **and** the anchorage. Indeed, the claimed "redirection system" is not an anchorage at all. *See, e.g.*, Figs. 9-12.

Claim 21 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Nagasaka in view of U.S. Patent No. 6,767,057 to Neelis. The obviousness rejection fails on its face in that no motivation to combine the references has been identified as required to make out a *prima facie* case of obviousness. *See In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1555, 1556 (Fed. Cir. 1993) (Examiner bears initial burden of presenting a *prima facie* case of obviousness); *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993) (A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art.). The remarks in the Office Action do not point to any teaching or suggestion in the prior art which would have rendered the claimed subject matter obvious as stated in the office action. Notably, Neelis teaches of the anchorage system rather than the claimed coupling apparatus that engages the anchorage system. Nonetheless, applicant has amended claim 21 to better point out the patentable aspects of the claim.

Based on the foregoing, Applicants respectfully request that claims 7, 8, 11, 18, and 21 be passed to issue. This submission is thought to be timely without any need for an extension of time; however, if any such extension of time is needed, Applicant respectfully requests that this submission be considered as a petition for extension of time sufficient to render this submission timely. The Commissioner is authorized to charge any fees due in connection with this submission, other than issue fees, and to credit any overpayments which may be due to the undersigned counsel's deposit account 10-0435 with reference to our file 2835-73549. Applicants ask that the Examiner contact Applicants' counsel James R. Sweeney II (317-231-7771) should the Examiner have any further questions after review of the present amendment.

Respectfully,

BARNES & THORNBURG LLP.

By: 
James R. Sweeney II
Reg. No. 45,670

11 S. Meridian Street
Indianapolis, Indiana 46204
Telephone: (317) 231-7771